

Patricia C. Barbera
24 Caribe Isle,
Novato, Ca. 94949
Tele: (415) 382-9617
Fax: (415) 382-0756

In Pro Per

JUN 13 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

PATRICIA C. BARBERA,

CASE NO. CV 08-2677 SBA

Plaintiff,

[Vacate and Remand to Superior Court of
California, County of Marin,
Case No. CV 081763]

v

WMC MORTGAGE CORPORATION

Defendant,

CAL LAND TITLE COMPANY OF MARIN,

Defendant,

SELECT PORTFOLIO SERVICING, INC,

Defendant,

PLAINTIFF PATRICIA C.
BARBERA'S NOTICE OF A
WRONGFUL REMOVAL AND
MOTION FOR REMAND AND
VACATE PURSUANT TO 28 U.S.C.
§ 1332 (c)(1) AND 1447© AND
Fed. R. Civ. P. 55.

[FEDERAL QUESTION]

INTRODUCTORY STATEMENT

This action arises as the direct result of Defendants: WMC MORTGAGE and CAL
LAND'S FRAUDULENT REMOVAL of PATRICIA BARBERA'S state court, cv 081763 to
this Court under the cloud of deception and fraud.

On May 30. 2008, Barbera learned that the Defendants had removed Her case. She also
determined that WMC MORTGAGE and SELECT PORTFOLIO SERVICING had not

1 answered their Summons and both were in defa[ult. **CAL LAND joined in the removal.**

2 **Select did not.**

3 On that same day Barbera had a e-mail from Christopher Rivas of REED SMITH who
4 purports to be the Head Attorney in this case. See Exhibit 1. He requested an extension to
5 answer the Summons for this case. Plaintiff responded with aa e-mail which objected as
6 follows:

7 "Your efforts to remove the case to the federal court is flawed as :

8 1.) The Quiet Title is an Absolute Jurisdiction case and cannot be removed.

9 2.) A corporation is a "citizen" both of the state in which it was incorporated and of the
10 state where it has its principle place of business. 28 U.S.C. § 1332(C)(1). Therefore,
actions brought in the courts of either state cannot be removed to a federal court."

11 See Exhibit 2.

12 It was followed by a call from Rivas who denied the accuracy of the laws and said that
13 Barbera did not know the law.

14 On June 2, 2008, Barbera requested ACKNOWLEDGMENT OF RECEIPTS from the
15 two Defendants, WMC and SPS in the believe that it was mandatory, and necessary to fulfill the
16 service requirements.

17 There ensued a volatile conversation with Rivas in which He shouted and finally hung
18 up. A few minutes later, He called back and agreed to furnish the requested document. Which
19 He did.

20 On June 3, 2008, Barbera sent the following e-mail:

21 Patricia C. Barbera
22 24 Caribe Isle
23 Novato, Ca 94949
Phone: (415) 382-9617
Fax(415) 382-0756
E-mail: wobirds@comcast.net

24 June 3, 2008

25 Christopher O. Rivas
26 ReedSmith
27 355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1611
28 Phone: (213) 457-8019
Fax: (213) 457-8080

RE: BARBERA vs. WMC MORTGAGE CORP. CV 081763.

Dear Mr. Rivas,

I received the unfiled stamp version NOTICE OF REMOVAL TO A FEDERAL COURT on June 2, 2008. At that time I had every reason to believe that it was legitimate. I believed that in your late representation, and in your rush to file it in a timely manner, that you failed to research fully.

The records disclose that WMC MORTGAGE CORP. and SELECT PORTFOLIO SERVICING were **IN DEFAULT**, as neither had answered their summons.

However, in light of your improper reaction to my request for the Acknowledgment of Receipt form, I believe that you now know about your **FRAUDULENT REMOVAL**.

The results will undoubtedly be:

- 1). Two judges who are irate for the deception,
- 2). Who will probably sanction you with liberties,
- 3). May report you to the BAR.
- 4). Unnecessary costs for your client.

A prudent and honorable attorney would **VOLUNTARILY DISMISS** the case.

Please advise.

Sincerely,

PATRICIA C. BARBERA

Immediately after receiving the e-mail a ranting Rivas called and said that She was threatening Him, that Barbera did not know the law, and that He was going to continue to litigate the case.

JURISDICTION

VACATE AND REMAND ARE PROPER BECAUSE THIS COURT HAS NO JURISDICTION PURSUANT TO 28 U.S.C. § 1332 (c)(1) AND 1447© AND FED. R. CIV. P. 55.

A.) WRONGFUL VIOLATIONS:

All the following are available as they are 'on the face of' the documents.

- 1.) The Quiet Title is an Absolute Jurisdiction case and cannot be removed. It can not be filed in any other jurisdiction.

- 2.) A corporation is a "citizen" both of the state in which it was incorporated and

1 of the state where it has its principle place of business. 28 U.S.C. § 1332(C)(1).

2 Therefore, actions brought in the courts of either state cannot be removed to a
3 federal court.”

- 4 3). When the state-court claims involves multiple defendants, all must join in the
5 removal. 28 U.S.C. § 1447. **(Select denied to join.)**

6 **B). FRAUD VIOLATIONS:**

7 4). a). He knew or should have known that the case was un-removable.

8 b). He was negligent in His research (if any).

9 Rivas intentionally filed a wrongful removal:

10 c). He continued to litigate when He has no right to defend the case as the result
11 of default that waived that right.

12 d). **HE DECEIVED THIS COURT AS THE RESULT OF HIS DECEPTION**
13 **AND INTENTIONAL WITHHOLDING THE FACT OF THE WMC**
14 **DEFAULT.**

15 e). **HE VIOLATED THE SANCTUARY OF THIS COURT.**

16 f). **HE VIOLATED HIS OATH OF THE RULES OF CONDUCT OF THE**
17 **CALIFORNIA STATE BAR ASSOCIATION.**

18 **2. THREE LAW FIRMS FROM THREE COUNTIES AND SIX**
19 **STATED ATTORNEYS FROM THOSE FIRMS, IN THREE COURTS,**
20 **CONSPIRED (JOINED) TO DECEIVE AND FRAUDULENTLY**
21 **WITHHELD THAT THE DEFENDANTS WERE IN DEFAULT,**
22 **WHICH MAYBE A CRIMINAL EVENT.**

23
24
25 **WHEREFORE,** Patricia Barbera respectfully requests that this Court **VACATE**
26 the case and **REMAND** it the State court from which it came, pursuant to 28 U.S.C. § 1332
27 (C)(1) and 1447© and Fed. R. Civ. P. 55.
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DATED: JUNE 13, 2008

Patricia C. Barbera
PATRICIA C. BARBERA

1 Patricia C. Barbera
2 24 Caribe Isle,
3 Novato, Ca. 94949
4 Tele: (415) 382-9617
Fax: (415) 382-0756

5 In Pro Per

6
7 UNITED STATES DISTRICT COURT

8
9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

10
11 PATRICIA C. BARBERA,

CASE NO. CV 08-2677 SPS

12 Plaintiff,

[Vacate and Remand to Superior Court of
California, County of Marin,
Case No. CV 081763]

13 v

14 WMC MORTGAGE CORPORATION

15 Defendant,

DECLARATION OF PATRICIA C.
BARBERA IN SUPPORT OF THE
NOTICE OF WRONGFUL
REMOVAL AND MOTION FOR
REMAND AND VACATE.

16 v

17 CAL LAND TITLE COMPANY OF MARIN

18 Defendant,

19 v

20 SELECT PORTFOLIO SERVICING
21 _____/

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28 Declaration of Patricia Barbera in Support of the Notice of Wrongful Removal/Remand Vacate

1 I, Patricia C. Barbera, hereby declare and say:

2
3 1. I am the Plaintiff in this action. I have personal knowledge of the facts set forth
4 in this Declaration and, if called upon to do so, I could and would testify competently thereto.

5 2. I submit this declaration in support of the Notice of a Wrongful Removal and
6 Motion to Remand and Vacate.

7 3. I personally reviewed the Marin County Superior Court files in this action on
8 May 30, 2008. This review disclosed that neither WMC MORTGAGE nor SELECT
9 PORTFOLIO SERVICING had Answered Their Summons. I realized that **THEY WERE IN**
10 **DEFAULT.**

11 4. On that date I e-mailed My Objections to the Removal, on two causes, to
12 Rivas which He denied..

13 5. On June 3, 2008, I again e-mailed Rivas a detailed objection on the cause that
14 They were in default and suggested that He might dismiss the case, to which He shouted, said
15 that I was threatening Him and disparaged Me.

16
17 I declare under penalty of perjury under the laws of the United States and the State of
18 California that the foregoing is true and correct. Executed this 11th day of June, 2008, at
19 Novato, California.

20
21 

22 Patricia C. Barbera

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28 Declaration of Patricia Barbera in Support of the Notice of Wrongful Removal/Remand Vacate

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

PATRICIA C. BARBERA,

Plaintiff,
v

CASE NO. CV 08-2677 SBA
[Vacate and Remand to Superior Court of
California, County of Marin,
Case No. CV 081763]

WMC MORTGAGE CORPORATION

Defendant

**ORDER TO NOTICE
WRONGFUL REMOVAL AND
MOTION TO VACATE THE CASE
AND REMAND IT TO THE STATE
COURT FROM WHICH IT CAME.**

CAL LAND TITLE COMPANY OF MARIN,

Defendant,

SELECT PORTFOLIO SERVICING, INC

Defendant.

Application having been made by Plaintiff PATRICIA C. BARBERA and good cause
appearing therefore,

IT IS HEREBY ORDERED that the Wrongful Removal will be Noticed and
This Case will be Vacated and Remanded to The State Court From Which it Came.

DATED: _____

JUDGE OF THE UNITED STATES DISTRICT COURT

Order To Notice Wrongful Removal and Motion to Vacate This Case and Remand It to The
State Court From Which it Came.

CERTIFICATE OF SERVICE

I, Sherry Mendenhall, hereby certify that on this 12th day of June 2008, a true and correct copy of the foregoing *Plaintiff Barbera's Notice of Wrongful Removal and Motion for Remand and Vacate* was served upon all counsel of record by UPS Overnight Mail, postage prepaid at the following addresses:

Christopher O. Rivas, Esq.
Scott H. Jacobs, Esq.
355 S. Grand Avenue, Suite 2900
Los Angeles, CA 90071

Glenn D. Kabanuck, Esq.
Law Office of Daniel A
Gamer
55 Professional Center
Suite H
San Rafael, CA 94903

Robin Prema Wright, Esq.
Wright, Finlay & Zak, LLP
4655 MacArthur Court, Suite 280
Newport Beach, CA 92660

By:


SHERRY MENDENHALL

PROOF OF SERVICE